



**TO THE HONORABLE SAM A. LINDSAY, U.S. DISTRICT JUDGE:**

Reynaldo P. Perez, alleged judgment debtor herein (“Perez”), files this *Answer and/or Objection of Reynaldo P. Perez to Writ of Garnishment to TD Ameritrade Holding Corporation* regarding the Writ of Garnishment (Docket No. 24) (the “Garnishment”) issued against TD Ameritrade Holding Corporation (“TD Ameritrade”), and in support thereof would show to the Court the following.

1. By way of background, Perez is 82 years old and has attempted at various times, with and without counsel, to resolve the purported judgment resulting from the ZeekRewards Ponzi scheme litigation since 2018 or earlier without success. In essence, the Receiver and/or current judgment holder (i) suggests that Perez max out unused credit card facilities in order to satisfy the purported judgment, and (ii) suggests that the purported judgment here is nondischargeable in bankruptcy, ignoring several recent reported and unreported bankruptcy court opinions to the contrary.<sup>1</sup> Perez disputes the applicability of the purported judgment because Perez actually received much less than what is recorded in the “Net Winners” table filed in relationship to the purported judgment.

2. On June 7, 2022, the Clerk issued the Garnishment (Docket No. 24) that is directed to TD Ameritrade.

3. On June 23, 2022, TD Ameritrade filed its *Original Answer to Writ of Garnishment* (Docket No. 25) (the “TD Answer”).

4. The account identified as Account No. XXX-XX0132 in the TD Answer is an individual retirement account that is exempt under Tex. Prop. Code §42.0021.

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<sup>1</sup> See *In re Reefer*, 638 B.R. 834 (Bankr.S.D.Fla. 2022); *In re Sheppard*, 2022 WL 598323 (Bankr.E.D.N.C. Feb. 28, 2022); *In re Simons*, 2021 WL 5225940 (Bankr. D. Minn. Nov. 9, 2021).

5. TD Ameritrade in the TD Answer admits that Account No. XXX-XX0132 is a “Rollover IRA.” See excerpt image below from Docket No. 25.

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II.

On the date the Writ of Garnishment was served, and on the date of this answer, Defendant Reynaldo P. Perez had two accounts at TD Ameritrade: Account No. XXX-XX5813 (in the name of “Reynaldo Pedrola Perez”) and Account No. XXX-XX0132 (in the name of “Reynaldo Pedrola Perez Rollover IRA”) (collectively, hereinafter the “Perez Accounts”). On the date the Writ of

6. The acknowledgment by TD Ameritrade that Account No. XXX-XX0132 is an IRA alone is sufficient to sustain the claim of objection by Perez with respect to such account, and the burden to prove otherwise now shifts to the creditor. *See In re Jarboe*, 365 B.R. 717, 721–22 (Bankr.S.D.Tex. 2007) (“It is the burden of the party claiming an exemption under § 42.0021 of the Texas Property Code to prove that he is entitled to it. But combined with the liberal rule of construction, evidence that an account is an IRA is sufficient to establish that it is exempt, unless evidence is presented that the IRA does not qualify for exempt treatment under the Internal Revenue Code.”) (internal citations omitted).

7. Furthermore, Perez possesses the right to receive payments from Account No. XXX-XX0132 free from the relevant judgment and the Garnishment herein, under Tex. Prop. Code §42.0021(b).

8. Accordingly, the Garnishment should be dissolved immediately with respect to Account No. XXX-XX0132, and Nationwide Judgment Recovery, Inc. et al. should be enjoined

and/or otherwise prohibited from further interference with any of the exempt property of Perez including but not limited to Account No. XXX-XX0132.<sup>2</sup>

9. Perez reserves the right to amend and/or supplement this objection prior to any hearing and/or final disposition of this matter.

WHEREFORE, Reynaldo P. Perez, purported judgment debtor herein, respectfully requests that the Court (1) dissolve the garnishment with respect to the individual retirement account account held by Perez at TD Ameritrade Holding Corporation and referenced and described as Account No. XXX-XX0132 and (2) otherwise enjoin and prohibit Nationwide Judgment Recovery, Inc. et al. from interference with any of the exempt property of Perez, including but not limited to Account No. XXX-XX0132. Respondent respectfully requests such other and further relief to which respondent may be entitled at law or in equity.

Dated: July 7, 2022

Respectfully submitted:

WEYCER, KAPLAN, PULASKI & ZUBER, P.C.

By: /s/ Jeff Carruth

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ATTORNEYS FOR REYNALDO P. PEREZ

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<sup>2</sup> A request has been made to Mr. Newark, counsel for the movant, to release the Garnishment with respect to Account No. XXX-XX0132.

**CERTIFICATE OF SERVICE**

The undersigned certifies that on July 7, 2022, a true and correct copies of the foregoing document were served electronically via the Court's CM/ECF system to all those entitled to receive service and to all other parties, consisting of the parties set forth below.

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